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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,494	09/08/2003	Dennis M. Hilton	621P002Div.	1928

42754 7590 04/30/2007
NIELDS & LEMACK
176 EAST MAIN STREET, SUITE 7
WESTBORO, MA 01581

EXAMINER

ZEMEL, IRINA SOPHIA

ART UNIT	PAPER NUMBER
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1711

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

10/657,494

Applicant(s)

HILTON ET AL.

Examiner

Irina S. Zemel

Art Unit

1711

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 05 May 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See attached Order from BPAI.



Irina S. Zemel
Primary Examiner
Art Unit: 1711

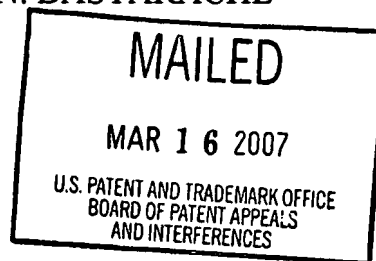
The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DENNIS M. HILTON, MICHAEL D. MORGAN, ROBERT PAUL,
KARL D. TAUB, ROBERT S. YOUNG, and RICKY N. BASTARACHE

Application 10/657,494
Technology Center 1700



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on November 15, 2006. A review has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matter requiring attention prior to docketing is identified below:

The content provided under the heading "**SUMMARY OF CLAIMED SUBJECT MATTER**" of the Appeal Brief received by the USPTO on May 5, 2006, is not commensurate in scope with 37 C.F.R. § 41.37(c)(1)(v)(2006) because the content does not give a concise explanation of the subject matter defined in each of the independent claims (or dependent claims argued separately pursuant to

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the provisions of paragraph (c)(1)(vii) of § 41.37) involved in the present appeal.
Correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:


- (1) to instruct Appellants to provide a Supplemental Appeal Brief which fully complies with 37 C.F.R. § 41.37(c)(1)(v);
- (2) to have said Supplemental Appeal Brief made a part of the Image File Wrapper (IFW) Official record;

and

- (3) for such further action as may be appropriate.

**BOARD OF PATENT APPEALS
AND INTERFERENCES**

By: _____



PATRICK J. NOLAN

Deputy Chief Appeals Administrator
(571) 272-9797

PJN:hh

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